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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.       | CONFIRMATION NO.       |
|--|-------------|----------------------|---------------------------|------------------------|
| 10/807,866   | 03/23/2004  | Ted M. Dean          | Tru Vision-002            | 5509                   |
| 21897  | 7590        | 12/27/2007           |                           |                        |
| THE MATTHEWS FIRM<br>2000 BERING DRIVE<br>SUITE 700<br>HOUSTON, TX 77057 |             |                      | EXAMINER<br>AHMAD, NASSER |                        |
|  |             |                      | ART UNIT<br>1794          | PAPER NUMBER           |
|  |             |                      | MAIL DATE<br>12/27/2007   | DELIVERY MODE<br>PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/807,866

Applicant(s)

DEAN ET AL.

Examiner

Nasser Ahmad

Art Unit

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Withdrawal of Final Rejection***

1. Applicant's request for reconsideration ( in the Appeal Brief filed on 10/2/2007) of the finality of the rejection of the last Office action (1/19/2007) is persuasive and, therefore, the finality of that action is withdrawn.

### ***Rejections Withdrawn***

2. Claims 1-2, 4-13 are rejected under 35 U.S.C. 112, first paragraph, made in the Office Action of 1/19/2007 has been withdrawn in view of the Appeal Brief filed on 10/2/2007.

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 1-2 and 4-13 have been considered but are moot in view of the new ground(s) of rejection.

### ***Allowable Subject Matter Withdrawn***

4. Claims 12 and 13 are objected in the last Office Action has been withdrawn in view of the amendment filed on 10/30/2006.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-2, 4-5, 12-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Miles (6383591).

Miles relates to a strip (10) comprising an elongated, narrow strip (14) of plastic (col. 13, lines 15-18) having a given width (figure-1), and having a longitudinal axis (figures 1-2), said strip of plastic having a first coated side (col. 6, lines 42-48), the coating on said first side covering the entire surface of such first side (because the patent does particularly specify that it is partially coated as arguably admitted by the applicant is the Appeal Brief of 10/2/2007, page-5, lines 17-18), and a second uncoated side (figure-2 showing the side with the adhesive (26)), whereby said coated side allows said strip to be easily rolled up and unrolled from a roll (col. 6, lines 42-48); and a plurality of adhesive elements (col. 12, lines 16-18 recites a line of adhesive dots), each having a width less than said given width (each dot is interpreted to have a width less than the given width), laminated to said uncoated side of said strip of plastic, said adhesive elements being aligned along the longitudinal axis of said strip (because the adhesive can be in a discontinuous pattern such as dots are in a line form), and having a predetermined spacing between each two of said plurality of adhesive elements (because the dots form a discontinuous pattern).

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The preamble phrase "A merchandising strip" is not found to be of positive limitation because the portion of the claim following the preamble phrase does not rely on the preamble for the completeness of its structure.

Further, the phrase "for displaying a plurality of discrete packages" is not given any patentable weight because it is directed to an intended use of the claimed product structure.

For claim 2, the plastic strip is clear plastic (col. 13, lines 17 mentions that the strip can be transparent).

For claim 4, the coating on said first side is comprised of silicone (col. 6, lines 42-48).

As for claim 5, said adhesive elements each have a circular configuration (because dots are known to have circular configuration).

For claim 12, the strip has first and second ends and has a hole (such as perforation as recited in col. 12, lines 32-33 located which includes a hole at each end of the line of perforations) near one end of said strip.

The phrase "to allow said to be hung vertically for display" is not found to be of positive limitation because it is directed to an intended use of the claimed product.

Regarding claim 13, the strip has first and second holes, one such hole being near each end of said strip (such as perforation as recited in col. 12, lines 32-33 which includes a hole at each end of the line of perforations).

The phrase "to allow said to be hung vertically for display without regard to the orientation of any such package attached to said adhesive elements" is not found to be of positive limitation because it is directed to an intended use of the claimed product.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 6-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miles.

Miles, as discussed above, fails to teach that the adhesive elements configuration is rectangular, square, triangular, pentagonal, oval, or star. It would have been an obvious matter of design choice to modify Miles' adhesive pattern such that each of the adhesive elements having the dot shape is modified to have a rectangular, square, triangular, pentagonal, oval or star configuration to provide for a discontinuous pattern for controlling the adhesiveness, and such a change in shape would have obvious to one having ordinary skill in the art.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nasser Ahmad whose telephone number is 571-272-1487. The examiner can normally be reached on 7:30 AM to 5:00 PM, and on alternate Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Nasser Ahmad  
Primary Examiner  
Art Unit 1794

12/20/07

N. Ahmad.  
December 20, 2007.



RENA DYE  
SUPERVISORY PATENT EXAMINER

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